

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JERRY LYNN DAVIS,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS,
et al.,

Defendant.

CASE NO. C20-5433 BHS

ORDER

THIS MATTER is before the Court on Defendant Washington State Department of Corrections' (DOC) motion to dismiss, Dkt. 182. Plaintiff Jerry Lynn Davis passed away while in custody in Thurston County in January 2024, and his then-attorney Jackson Millikan filed and served on Davis's widow, Kristen Rochester, a Suggestion of Death on February 16. Dkt. 175. Millikan has since withdrawn. Dkts. 176, 178.

Rochester sought to substitute herself as plaintiff, Dkt. 177, and the Court denied that effort because she is not an attorney and cannot represent Davis's estate, even if she was its personal representative. Dkt. 178. The Court urged Rochester to obtain counsel. *Id.*

1 She has not done so, and the 90-day period for properly substituting herself as the
2 plaintiff in this case has now expired. Fed. R. Civ. P. 25.

3 DOC moves to dismiss under Federal Rule of Civil Procedure 25(a), based on the
4 expiration of the 90-day period. Dkt. 182. Rochester has not responded, and as DOC
5 points out, no one has substituted as plaintiff. Rule 25(a) requires a motion for
6 substitution within 90 days, and provides that in the absence of a timely motion, the case
7 “must be dismissed.” Fed. R. Civ. P. 25(a)(1).

8 The motion is therefore **GRANTED**. The case is **DISMISSED** without prejudice.

9 The Clerk shall enter a **JUDGMENT** and close the case.

10 Dated this 1st day of July, 2024.

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13 BENJAMIN H. SETTLE
14 United States District Judge
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